Congress of the United States Washington, DC 20515

September 10, 2013

The Honorable Jacob J. Lew Secretary Department of the Treasury 1500 Pennsylvania Avenue, NW Washington, DC 20220

Dear Secretary Lew:

Numerous public reports indicate that the Administration is actively seeking a way to accommodate its union supporters by extending health insurance exchange premium and cost-sharing subsidies provided under the Patient Protection and Affordable Care Act (PPACA) only to unionized workers (non-unionized workers would not receive this additional benefit) already covered by employer-sponsored health insurance. As you know, PPACA does not, as written, provide exchange subsidies for any individual already covered by employer-sponsored health insurance. That being the case, a deal such as this by the Administration for the unions would be illegal.

Individuals covered by "Taft-Hartley" multiemployer health plans – union plans – are not taxed on the contributions their employers pay into the plans on their behalf. The contributions are excluded from the worker's income for tax purposes. The exchange subsides under PPACA were based on and designed specifically to ensure the principle that no individual may receive *both* the longstanding health insurance tax exclusion and the PPACA exchange subsidies. Giving union workers exchange subsidies in addition to the income tax exclusion would be "double dipping."

News reports also indicate that union leaders have been pushing for a rule change that would allow multiemployer plans to be treated as qualified exchange plans under PPACA. This would also violate the law. Under PPACA, only health insurers that sell insurance to the public may qualify to participate on an exchange. Under the plain language of the statute, employer-sponsored health plans — including Taft-Hartley multiemployer plans — do not qualify for participation in the exchanges.

Any attempt by the Administration to issue regulations or other guidance to extend PPACA premium and cost-sharing subsidies to union workers covered by employer-sponsored plans – workers that already enjoy substantial tax subsidies for their health care – will be met with strong resistance. We will do whatever is within our power to ensure that the Administration does not once again provide a special exemption to unions at the expense of American taxpayers. We strongly urge you to reverse course, treat all American workers fairly and comply with the law. Thank you for your prompt attention regarding this important matter.

Sincerely,

ORRIN HATCH

Ranking Member

Senate Finance Committee

DAVE CAMP

Chairman

Committee on Ways and Means

CC: Secretary Sebelius

Secretary Perez